

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JHEN SCUTELLA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:23-CV-320
)	
TRINITY FOOD SERVICES, et al,)	
)	
Defendants.)	

MEMORANDUM ORDER

This action was received by the Clerk of Court on November 15, 2023. The matter was assigned and later referred to Chief United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

In his complaint, Plaintiff, a former inmate acting pro se, alleges that his constitutional rights have been violated by multiple prison staff during his incarceration at the Erie County Prison. As Defendants, he names Trinity Food Services, Wexford Health Services, J. Evanovich, Michelle Earley, PA Kang, Dr. Gibson, and Nurse Ashley.

In response to the complaint, each of the above-listed Defendants filed motions to dismiss. ECF No. 40 (Wexford Health, Earley, Kang, Gibson, and Ashley); ECF No. 51 (Trinity Food); and ECF No. 65 (Evanovich).

By Report and Recommendation filed on April 8, 2025, Chief Magistrate Judge Richard A. Lanzillo recommended that the motion to dismiss filed by Defendants Wexford Health, Earley, Kang, Gibson, and Ashley [ECF No. 40] be granted without prejudice. ECF No. 69.

A few days later, Judge Lanzillo, by separate Report and Recommendation, recommended that the motions to dismiss filed by Trinity Food (ECF No. 51) and Evankovich (ECF No. 65) be granted in part and denied in part.

To date, no objections to either Report and Recommendation have been filed by any party. Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72(D)(2).

After *de novo* review of the documents in the case, together with the motions to dismiss, oppositions thereto, and both Reports and Recommendations, the following order is entered:

AND NOW, this 5th day of June 2025;

IT IS ORDERED that the motion to dismiss filed by Defendants Wexford Health, Earley, Kang, Gibson, and Ashley [ECF No. 40] be granted without prejudice.

IT IS FURTHER ORDERED that the motions to dismiss filed by Defendant Trinity Food [ECF No. 51] and Evankovich [ECF No. 65] be granted in part and denied in part, consistent with the Report and Recommendation addressing such.

AND IT IS FURTHER ORDERED that the Reports and Recommendations of Chief Magistrate Judge Lanzillo, issued on April 8, 2025 [ECF No. 69] and April 11, 2025 [ECF No. 71] are adopted as the opinions of this Court.

By separate Order of Chief Magistrate Judge Lanzillo, Plaintiff will be directed to file an amended complaint as to certain of his claims.

/s/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
United States District Judge